

IN THE SENATE

SENATE BILL NO. 1188

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE IDAHO BAIL ACT; AMENDING SECTION 19-2913, IDAHO CODE, TO PROVIDE ADDITIONAL PROVISIONS RELATING TO THE SURRENDER OF DEFENDANT; AND AMENDING SECTION 19-2922, IDAHO CODE, TO PROVIDE AN ADDITIONAL CIRCUMSTANCE WHEN THE COURT IS REQUIRED TO ORDER THE BAIL EXONERATED.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 19-2913, Idaho Code, be, and the same is hereby amended to read as follows:

19-2913. SURRENDER OF DEFENDANT. (1) At any time before forfeiture of bail, a surety insurance company or its bail agent or person posting a property bond or cash deposit may surrender the defendant to the sheriff of the county where the action is pending. Upon the surrender of the defendant, the sheriff shall accept and incarcerate the defendant in lieu of the bail originally set by the court.

(2) At the time of surrender of the defendant to the sheriff, whether pre-forfeiture or post forfeiture of bail, the surety insurance company or its bail agent or person posting a property bond or cash deposit shall provide the sheriff with a certificate of surrender.

(3) The surety insurance company or its bail agent or person posting a property bond or cash deposit shall, within five (5) business days of the surrender of the defendant, whether pre-forfeiture or post forfeiture of bail, file with the court in which the action or appeal is pending the certificate of surrender and shall deliver a copy of the same to the attorney for the state. ~~The court shall thereupon order the bail exonerated.~~

(4) At any time before forfeiture of bail, a defendant may surrender himself to the sheriff of the county where the action is pending. Upon surrender by the defendant, the sheriff shall accept and incarcerate the defendant in lieu of the bail originally set by the court.

SECTION 2. That Section 19-2922, Idaho Code, be, and the same is hereby amended to read as follows:

19-2922. EXONERATION OF BAIL. The court shall order the bail exonerated in the following circumstances:

(1) The defendant has appeared for all court proceedings as ordered and all charges for which the bail has been posted have been resolved by acquittal, dismissal or sentencing;

(2) Written notice of the court's order of forfeiture was not mailed to the person posting bail or his designated agent within five (5) business days of the order of forfeiture;

1 (3) Written notice of the court's order to set aside the order of for-
2 feiture and reinstating bail was not mailed to the person posting bail or his
3 designated agent within five (5) business days of the order;

4 (4) Before any order of forfeiture, the defendant has been surrendered
5 or has surrendered himself to the sheriff of the county where the action is
6 pending and the certificate of surrender has been filed with the court as re-
7 quired in section 19-2913, Idaho Code;

8 (5) The defendant:

9 (a) Has appeared before the court within one hundred eighty (180) days
10 of the court's order of forfeiture; or

11 (b) Has been surrendered within one hundred eighty (180) days of the
12 court's order of forfeiture by the surety insurance company or its bail
13 agent or person posting a property bond or cash deposit and a certifi-
14 cate of surrender has been filed with the court within five (5) business
15 days of the surrender as provided in section 19-2913, Idaho Code;

16 unless the court has set aside the order of forfeiture and has reinstated
17 bail pursuant to section 19-2916, Idaho Code; provided, that in those cases
18 where the defendant was not returned by the person posting bail to the sher-
19 iff of the county where the action is pending, the court may condition the
20 exoneration of bail and the setting aside of the forfeiture on payment by the
21 person posting bail of any costs incurred by state or local authorities aris-
22 ing from the transport of the defendant to the jail facility of the county
23 where the charges are pending. Such costs shall not exceed the amount of the
24 bail posted;

25 (6) The court has revoked bail and has ordered that the defendant be
26 recommitted.